

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Notice of Price Adjustment

Docket No. R2012-6

ORDER APPROVING MARKET DOMINANT PRICE ADJUSTMENT

(Issued March 26, 2012)

I. INTRODUCTION

A. Overview

On February 21, 2012, the Postal Service filed a notice of price adjustment to temporarily reduce the prices for First-Class Mail and Standard Mail letters, flats, and cards (presort and automation) that contain a qualifying mobile barcode inside or on the mailpieces.<sup>1</sup> The adjustment is a 2 percent discount scheduled to take effect at 12:01 a.m. on July 1, 2012 and expire at 11:59 p.m. on August 31, 2012 (2012 Promotion). *Id.* at 1.

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<sup>1</sup> United States Postal Service Notice of Market-Dominant Price Adjustment, February 21, 2012 (Notice).

The Postal Service states that the 2012 Promotion will encourage mailers to accelerate their integration of more advanced mobile commerce and personalization techniques into their direct mail campaigns. *Id.* at 4.

## B. Procedural History

In Order No. 1252, the Commission established Docket No. R2012-6 to consider the Postal Service's filing, set March 12, 2012 as the date for interested persons to submit comments on the price adjustments, and appointed a Public Representative to represent the interests of the general public in this proceeding.<sup>2</sup>

Two Chairman's information requests were issued.<sup>3</sup> The Postal Service responded on March 8, 2012 and March 20, 2012.<sup>4</sup>

Comments were received from the following parties on March 12, 2012: the National Postal Policy Council<sup>5</sup>, the Public Representative<sup>6</sup>, the American Catalog Mailers Association<sup>7</sup>, and Valpak<sup>8</sup>. On March 19, 2012, the Postal Service submitted a request to submit reply comments to the PR Comments and Valpak Comments<sup>9</sup>, along with its reply comments<sup>10</sup>.

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<sup>2</sup> Notice and Order Concerning Market Dominant Price Adjustment for First-Class Mail and Standard Mail, Order No. 1252, February 22, 2012.

<sup>3</sup> Chairman's Information Request No. 1, March 2, 2012 (CHIR No. 1) and Chairman's Information Request No.2, March 15, 2012 (CHIR No.2).

<sup>4</sup> Response of the United States Postal Service to Chairman's Information Request No. 1, March 8, 2012 (Response to CHIR No. 1) and Response of the United States Postal Service to Chairman's Information Request No. 2, March 20, 2012 (Response to CHIR No. 2).

<sup>5</sup> Comments of the National Postal Policy Council, March 12, 2012 (NPPC Comments).

<sup>6</sup> Public Representative Comments, March 12, 2012 (PR Comments).

<sup>7</sup> Comments of the American Catalog Mailers Association, March 12, 2012 (ACMA Comments).

<sup>8</sup> Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Comments on the United States Postal Service Notice of Market-Dominant Price Adjustment, March 12, 2012 (Valpak Comments).

<sup>9</sup> Motion of the United States Postal Service Requesting Leave to Submit Reply Comments, March 19, 2012. The Motion is granted.

<sup>10</sup> Reply Comments of the United States Postal Service, March 19, 2012 (Reply Comments).

## II. PROPOSED ADJUSTMENT

### A. Postal Service Filing

The 2012 Promotion will provide an upfront 2 percent discount on Standard Mail and First-Class Mail letters, flats, and cards (presort and automation) that include a qualifying mobile barcode either inside or on the mailpiece. Notice at 4. The mobile barcode must be readable by a mobile device and lead the recipient to either a mobile-optimized webpage that allows the recipient to purchase a product or service on the mobile device or a mobile-optimized website whose web address and content are unique to an individual recipient. *Id.* Mailers will be prohibited from, among other things, using mobile barcodes that direct recipients to websites for payment of prior purchases or websites that encourage mailers to move to electronic statements or bill payment. *Id.* at 5.

Participants or mail service providers will be required to register for the 2012 Promotion and agree to its terms at least 24 hours prior to the first qualifying mailing. *Id.* at 5. The registration will ask mailers to specify which permits will be participating in the promotion, and mailers will be asked to participate in a survey at the end of the promotion period to better measure the results of the 2012 Promotion. The Postal Service plans to open registration around May 1, 2012. The Postal Service will require the mailings to be submitted electronically via mail.dat, mail.xml, or Postal Wizard. Mailers must affirmatively claim the 2012 Promotion on their electronic postage submissions and certify that each mailpiece contains a mobile barcode. Mailers must claim the 2012 Promotion discount at the time of mailing. Postage must be paid using a permit imprint, pre-cancelled stamp imprint, or qualifying meter mail. *Id.*

## B. Chairman's Information Requests

CHIR No. 1 sought to clarify the rationale for the inclusion of Standard Mail Flats in the 2012 Promotion and requested data obtained from the 2011 Promotion, a similar program approved by the Commission last year.<sup>11</sup>

In its Response to CHIR No. 1, the Postal Service provides disaggregated tables showing the expected contribution for the Standard Mail Flats product and the Carrier Route product. Response to CHIR No. 1 at 1. Additionally, the Postal Service states that, unlike the case in the 2011 Promotion, it is now possible to apply the discount to Standard Mail Flats product and the Carrier Route Product separately. *Id.* at 2. In the 2012 Promotion, the Postal Service will apply the 2 percent postage discount to the line item totals on the postal statement enabling each product to be discounted independently. *Id.* at 3. However, the Postal Service states that excluding Standard Flats from the 2012 Promotion would be counterproductive and harm the long-range goals of the initiative because it would unnecessarily complicate the participation of a significant portion of mailers who generally treat Carrier Route and Standard Mail Flats as different mail preparation requirements for the same mailpieces. *Id.*

The Postal Service also responds that the percentage of Standard Mail Flats pieces in the 2011 Promotion that were not residual pieces from a Carrier Route, High Density or Saturation Mailing was 9 percent, and that it expected this figure would remain the same for the 2012 Promotion. *Id.* at 5. Further, the Postal Service states that while the inclusion of Standard Mail Flats in the 2011 Promotion did not directly lead to a long-term solution to the cost coverage issue, the inclusion of Standard Flats in the 2011 and 2012 Promotions would benefit the product in the long term by increasing the advertising mail market and, therefore, Standard Mail revenues. *Id.* at 6. It also noted that, while the Commission directed the Postal Service to increase the cost coverage of Standard Mail Flats through a combination of above-average price

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<sup>11</sup> See Docket No. R2011-5, Order Approving Market Dominant Price Adjustment, May 17, 2011 (Order No. 731).

adjustments and cost-reductions,<sup>12</sup> the Postal Service's appeal of this directive is currently pending in the U.S. Court of Appeals for the District of Columbia<sup>13</sup> and the Commission's directive has been stayed while these proceedings are pending.<sup>14</sup> *Id.* at 7.

CHIR No. 2 requested clarification of the eligibility requirements for mobile-optimized websites to qualify for the 2012 Promotion. In response to CHIR No.2, the Postal Service clarifies the requirements for mobile-optimized websites that meet the requirements of the 2012 Promotion by providing several screenshots of qualifying websites (Response to CHIR No. 2, Attachment A) and providing examples of several scenarios that would lead to a disqualification from the 2012 Promotion. *Id.* at 1-2. The Postal Service further explains that acceptance clerks will verify the presence of a mobile barcode on a sample mailpiece at the time of acceptance—however, they will not scan the barcodes at the time of mail acceptance. *Id.* at 3. Instead, the program office will conduct a random sampling of mailpieces collected at Business Mail Entry Units to verify that the submissions meet program requirements. *Id.* If a mailing does not meet 2012 Promotion guidelines, the Postal Service reserves the right to pursue a revenue deficiency in accordance with existing Postal Service procedures. *Id.*

### C. Comments

The 2012 Promotion is supported by ACMA and NPPC. The latter expresses concern that the reduced discount (from 3 percent in the 2011 Promotion to 2 percent in the 2012 Promotion) would discourage some mailers from participating. NPPC Comments at 5. NPPC also suggests that additional notice of future promotions would be beneficial for planning purposes. *Id.* at 6.

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<sup>12</sup> Docket No. ACR2010, FY2010 Annual Compliance Determination Report at 106, March 29, 2011.

<sup>13</sup> *U.S. Postal Service v. Postal Regulatory Commission*, No. 11-1117 (D.C. Cir).

<sup>14</sup> Docket No. ACR2010, Order Granting Stay, May 27, 2011 (Order No. 731).

The proposal is opposed, in part, by Valpak and the Public Representative who argue that discounts should not be extended to Standard Mail Flats

### III. COMMISSION ANALYSIS

*39 CFR part 3010.* The Postal Service characterizes the 2012 Promotion as a Type 1 price adjustment. As the Commission previously stated in Order No. 731, Title 39 does not prohibit the Postal Service from lowering prices, provided that it does not unduly discriminate against or favor any mailer.<sup>15</sup> The Postal Service has reasonably satisfied the requirements of Rule 3010. See Notice at 2, 9-13..

*Workshare Discounts.* The Postal Service states, and the Commission agrees, that the 2012 Promotion will not impact current workshare discounts. *Id.* at 13.

*Preferred Rates.* The 2012 Promotion does not exclude any mailers, and therefore the Postal Service represents that it will not affect compliance with any preferred rate requirements. *Id.* All things being equal, the 2012 Promotion should not affect compliance with 39 U.S.C. 3626(a)(6)(A) because the discount applies to nonprofits as well.

*Impact on Price Cap.* Rules 3010.14(b)(1)-(4) require price adjustments to comply with the price cap limitations in the Postal Accountability and Enhancement Act (PAEA). Consistent with past limited-availability discounts, including the 2011 Promotion, the Postal Service intends to exclude the 2012 Promotion from price-cap calculations pursuant to the procedures described in Rule 3010.24. *Id.* at 9.

The Commission finds that the proposed treatment is reasonable as ineligible mailers will not be charged higher rates based on the amount which otherwise would be banked from the program. It is also reasonable given the uncertainty over the number of mailers that will utilize it. The Commission views this limited duration adjustment as a generally applicable rate adjustment that effectively lowers all rates implicated. In those

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<sup>15</sup> See Order 731 at 7.

limited circumstances, it is appropriate to allow the Postal Service to implement the adjustment without a price cap calculation.

*Standard Mail Flats.* The Public Representative and Valpak oppose the inclusion of Standard Mail Flats because the product does not cover costs. Valpak maintains that increased volume from underwater products is not a desirable outcome and that nothing about the 2012 Promotion contributes to cost control or provides solutions for the cost coverage problem. Valpak Comments at 4-5. It points out that discounts for Standard Mail Flats in the 2011 Promotion totaled \$4.707 million and that “[a]lmost \$5 million for a near-insolvent company is not insignificant.” *Id.* Valpak further states that the 2.209 percent price increase accepted by the Commission in Docket No. R2012-3 for Standard Mail Flats was only 0.076 percent above the average, and providing the proposed discount could put that product out of compliance with the FY 2010 ACD Directive. *Id.* at 6.

The Public Representative points to similar reasons for excluding the Standard Mail Flats product, given that this product already does not generate sufficient revenue to cover its attributable costs. PR Comments at 2. According to the Public Representative, the Postal Service has not effectively demonstrated how excluding Standard Mail Flats from the 2012 Promotion would hinder its ability to achieve its stated long-term goals, as it could still raise awareness about the benefits of mobile barcodes without including Standard Mail Flats. *Id.* at 3-4.

ACMA supports the inclusion of Standard Mail Flats, stating that catalog mailers would be less inclined to take part in the promotion if this product were excluded. ACMA Comments at 2. It maintains that excluding Standard Mail Flats would diminish the experimentation and innovation resulting from the 2012 Promotion. *Id.* In its Reply Comments, the Postal Service emphasizes the strategic value of initiatives like the 2012 Promotion in improving product volumes, essential to the ongoing efforts to improve cost coverage. Reply Comments at 2. In particular, the Postal Service asserts that inclusion of Standard Mail Flats is essential to prevent unnecessary complications to mailers in designing their promotional campaigns and “ensure that Standard Mail Flats’

value to cataloguers remains robust”. *Id.* at 3, 5. It adds that improving profitability must go beyond simply increasing prices and cutting costs, incorporating instead a balanced approach to improve the long term value of the Standard Mail Flats product to cataloguers. *Id.* The Postal Service emphasizes the short duration and the minimal impact of the 2012 Promotion, and asserts that excluding Standard Mail Flats would generate confusion among mailers. *Id.* at 4-5.

For the reasons that follow, the Commission approves the 2012 Promotion as proposed. In weighing the parties’ comments, the Commission’s conclusion is influenced by the following factors. First, the 2012 Promotion is offered for a 2-month period. Second, the discount, 2 percent, is less than the 2011 Promotion. Third, the potential long term benefits of the 2012 Promotion, including improving the value of Standard Mail, are worthy objectives and, under the circumstances, outweigh the Commission’s concerns over the disparity in relative contributions by Standard Mail products. In that regard, the relative cost contributions between Standard Letters and Standard Flats remain relatively unchanged as a result of this short-term discount. Fourth, as of the date this order is issued, the appeal on the Commission’s directive to decrease the intra-class cross-subsidy by increasing cost coverage on the Standard Mail Flats product is still pending in the U.S. Court of Appeals for the District of Columbia.

Lastly, the PAEA promotes pricing flexibility, and this short-term promotion fosters this goal. The 2012 Promotion builds on its predecessor and seeks growth through synergy with technology. Attempting to improve the value of the mails is an important strategy. If there are future, similar promotions, the Postal Service should report to the Commission on its results from the 2012 Promotion and to demonstrate the long-term value of similar discounts going forward.

*Estimated financial impact.* The Postal Service has provided an estimate of the financial impact of the 2012 Promotion in Appendix B to the Notice as well as in its responses to CHIR No.1, question 1. Under the low adoption scenario, the discount may equal \$16 million, whereas under the high adoption scenario the total may equal



\$34 million. Notice at 7. The Postal Service states that a short-term investment in the form of foregone revenues is intended to increase revenues in the future by improving the long term value of direct mail advertising to mailers. *Id.*

*Objectives and factors.* The Postal Service states that the program does not substantially alter the degree that First-Class Mail and Standard Mail prices already address the objectives and factors in 39 U.S.C. 3622. *Id.* at 10-13. Specifically, the Postal Service notes that the promotion is an example of pricing flexibility (objective 4); encourages profitable mail volume that enhances the financial position of the Postal Service (objective 5); encourages increased mail volume (factor 7); and does not imperil the ability of First-Class Mail or Standard Mail to cover attributable costs (factor 2). *Id.*

The Commission finds that the promotion is unlikely to materially alter the degree to which First-Class Mail and Standard Mail prices comply with the objectives and factors of 39 U.S.C. 3622.

*It is ordered:*

1. The Commission approves the proposed market dominant price adjustment set forth by the Postal Service in its Notice dated February 21, 2012.
2. The Postal Service shall report, no later than 90 days following the close of the 2012 Promotion period, on the volume and gross discount awarded to each type of product.

By the Commission.

Shoshana M. Grove  
Secretary